

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ERIC PRESCOTT KAY §
§
VS. § Civil. 4:25-CV-132-Y
§(Criminal No. 4:20-CR-269-Y(1))
UNITED STATES OF AMERICA §

INSTRUCTIONS TO PARTIES IN A MOTION UNDER 28 U.S.C. § 2255

The United States district clerk for the Northern District of Texas ("the Clerk") has received and filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct the sentence imposed against Eric Prescott Kay ("Movant"), a person in custody under a judgment of this Court, in the above-styled and-numbered cause. No filing fee will be required. The motion and all further pleadings shall be styled and numbered as set forth above. The clerk and the parties shall comply with the following directives as indicated.

SERVICE OF PROCESS. Service upon the United States of America of the motion under 28 U.S.C. § 2255, the memorandum in support thereof, all motions filed in this matter by Movant, this order, and any other order pertinent to the case shall be served electronically on the United States Attorney for the Northern District of Texas.¹ See Fed. R. Crim. P. 49(B); Fed. R. Civ. P. 5(b)(2)(D).

RESPONSIVE PLEADINGS. The United States attorney shall, within sixty days from the date of this order, file an answer, motion, or other response to the motion under 28 U.S.C. § 2255. An answer shall comply with the provisions of Rule 5 of the Rules Governing § 2255 Cases in the United States District Courts. Any claim that the motion under 28 U.S.C. § 2255 should be dismissed as either untimely or as a second or successive motion must be raised by a motion. A true copy of the answer or any motion, together with a copy of any brief filed therewith, shall be served by mail on Movant and a certificate must be filed with the clerk evidencing such service.

REPLY. Pursuant to Rule 5(d) of the Rules Governing Section 2255 Proceedings, Movant may file a reply within thirty days following service of the answer or other pleading of the United States.

BRIEFS. Briefs, as required or permitted by the provisions of this paragraph, must be submitted on letter-sized paper and must be double spaced. Each argument advanced in the brief, with supporting


¹Such service shall be directed to the attention of the criminal section habeas attorney, U.S. Attorney's Office for the Northern District of Texas. See RULES GOVERNING SECTION 2255 PROCEEDINGS FOR THE UNITED STATES DISTRICT COURTS, Rule 3(b).

citations, must clearly specify the specific ground of the motion or numbered paragraph of the pleading it seeks to support or oppose. A copy of any brief must be served by mail on the opposing party or, if he is represented by counsel, on the counsel, and a certificate reflecting such service must be included in the brief. Briefs are required or permitted as follows:

1. **Brief of the United States.** The United States must file a brief in support of its answer or other pleading.

2. **Reply brief.** A reply brief by Movant is not required. A reply brief may be filed by Movant, however, within thirty days following service upon Movant of the brief of the United States. Each paragraph of such reply brief must specify the precise paragraph or part of the United States's brief to which reply is being made, and must reply only the argument of the United States. No statement or argument set forth in any brief will be deemed a part of the pleadings or allowed to otherwise advance new grounds for relief, supplement any ground, or support facts set out in the motion.

SIGNED April 9, 2025.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE